

## **REMARKS**

### **Withdrawn Claims**

Claims 19, 34-43, 46-48 and 65-96 have been withdrawn as being directed to a non-elected invention/species grouping. The Applicant has cancelled withdrawn claims 46-48 and 65-96 without prejudice for possible submission and consideration in a continuing application. Withdrawn claims 19 and 34-43 have been maintained in the subject application for possible reinstatement following allowance of one or more independent base claims. The Applicant notes that dependent claims 19 and 34 have been amended to depend from rewritten independent claim 29, which has been indicated as allowable, and that dependent claim 43 has been amended to depend from dependent claim 34.

### **Allowable Claims**

Claims 20, 29-33 and 59-63 have been objected to, but have been indicated as allowable if rewritten in independent form. Additionally, claims 26 and 27 were also indicated as being allowable if rewritten in independent form and amended to overcome an informality.

The Applicant has rewritten claims 20, 26, 29, 33 and 59 in independent form. Additionally, claims 27 and 28 depend from rewritten independent claim 26, claims 30-32 depend from rewritten independent claim 29, and claims 60-63 depend from rewritten independent claim 59. Accordingly, claims 20, 26-33 and 59-63 are submitted to be in condition for allowance.

### **Information Disclosure Statement**

The Information Disclosure Statements filed on 11/01/04 and 01/24/05 were indicated as failing to comply with 37 CFR 1.98(a) because the IDS does not include a concise explanation of the relevance of each non-English patent reference and/or did not include a legible copy of each cited reference. The Applicant submits herewith a Supplemental Information Disclosure Statement which complies with the requirements of 37 CFR 1.98(a).

The Applicant notes that English language equivalents of DE 19641023 and FR 2806918 are provided with the Supplemental Information Disclosure Statement. Also provided is a copy of the search report from a counterpart PCT application in which DE 29822563, EP 0955021 and

FR 2412300 were cited. According to the Manual of Patent Examining Procedure §609.04(a)(III), “[w]here the information listed is not in the English language, but was cited in a search report or other action by a foreign patent office in a counterpart foreign application, the requirement for a concise explanation of relevance can be satisfied by submitting an English-language version of the search report or action which indicates the degree of relevance found by the foreign office. This may be an explanation of which portion of the reference is particularly relevant, to which claims it applies, or merely an “X”, “Y”, or “A” indication on a search report.” The Applicant submits that the search report from the counterpart PCT application provided with the Supplemental Information Disclosure Statement adequately serves as “a concise explanation of relevance” of the references cited therein. Accordingly, the Applicant respectfully requests consideration and acknowledgement of the Supplemental Information Disclosure Statement.

#### **Claim Rejections – 35 USC § 112**

Claims 26 and 27 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite. The Applicant has amended claims 26 and 27 to address these rejections by changing the phrase “that exhibits” to “having” and “has”, respectively. Accordingly, withdrawal of the rejections of claims 26 and 27 as being indefinite is respectfully requested. Additionally, withdrawn claims 38 and 39 have been amended to improve their form. Additionally, dependent claim 54 has been amended to correct an informality associated with the claim preamble.

#### **Claim Rejections – 35 USC § 103**

Claims 1-8, 14, 16-18, 21-25, 44-52 and 53-58 have been rejected under 35 U.S.C. §103 as being unpatentable over International PCT Publication No. WO 00/23015 (hereafter “the ‘015 publication”) in view of International PCT Publication No. WO 03/049149 (hereafter “the ‘149 publication”). Additionally, claims 9-13, 28, 44, 52 and 64 have been rejected under 35 U.S.C. §103 as being unpatentable over the ‘015 publication in view of the ‘149 publication and further in view of U.S. Patent No. 6,261,322 to Despres et al. (hereafter “the 322 patent”).

Independent claims 1, 44 and 53 and dependent claims 45-52 have been cancelled without prejudice for possible submission and consideration in a continuing application. Additionally, dependent claims 4, 5 and 9 have been amended to depend from

rewritten/allowable independent claim 20, and dependent claims 2, 6, 21-23 and 25 have been amended to depend from rewritten/allowable independent claim 26. Further, dependent claims 14-16, 18 and 19 have been amended to depend from rewritten/allowable independent claim 29, and original independent claim 34 has been amended to depend from rewritten/allowable independent claim 29. Moreover, dependent claims 54-56 and 64 have been amended to depend from rewritten/allowable independent claim 59.

As indicated above, the Applicant has rewritten claims 20, 26, 29, 33 and 59 in independent form, with each of these claims having been indicated as allowable. Accordingly, allowance of rewritten independent claims 20, 26, 29, 33 and 59 is respectfully requested. Additionally, claims 4, 5 and 9-13 depend either directly or indirectly from rewritten/allowable independent claim 20, claims 2, 3, 6-8, 21-25, 27 and 28 depend either directly or indirectly from rewritten/allowable independent claim 26, claims 14-19, 30-32 and 34-43 depend either directly or indirectly from rewritten/allowable independent claim 29, and claims 54-58 and 60-64 depend either directly or indirectly from rewritten/allowable independent claim 59. Dependent claims 2-19, 21-25, 27, 28, 30-32, 34-43 and 54-64 are submitted to be patentable for at least the reasons supporting the patentability of their respective independent base claims, and allowance of the same is respectfully requested.

### **CONCLUSION**

In view of the foregoing amendments and remarks, it is respectfully submitted that the Applicant's application is now in condition for allowance with pending claims 2-43 and 54-64.

Reconsideration of the subject application is respectfully requested. Timely action towards a Notice of Allowability is hereby solicited. The Examiner is encouraged to contact the undersigned by telephone to resolve any outstanding matters concerning the subject application.

Respectfully submitted,

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